

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 820**

**Introduced by Assembly Member Strickland**

February 18, 2005

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~~An act to amend Section 14839.1 of the Government Code, relating to public contracts.~~ *An act to amend Sections 2150, 2150.1, 2150.4, and 2150.5 of, to add Sections 2157, 2193, 2194, and 2195 to, and to repeal Section 2125 of, the Fish and Game Code, relating to captive wild animals.*

LEGISLATIVE COUNSEL'S DIGEST

AB 820, as amended, Strickland. ~~Public contracts: small business certification~~ *Wild animals.*

*(1) Existing law prohibits the importation into this state of wild animals specified on a list published by the State Department of Health Services without a permit issued by that department, except that existing law does not authorize the importation, transportation, or possession of live animals enumerated in specified provisions of the Fish and Game Code or regulations of the Fish and Game Commission adopted pursuant thereto. Those Fish and Game Code provisions prohibit the importation, transportation, possession, or release into this state of certain wild animals without a permit issued by the Department of Fish and Game (hereafter department). Existing law establishes civil penalties for a violation of specified provisions and requires fees collected pursuant to the provisions relating to wild animals to be deposited in the Fish and Game Preservation Fund. Existing law permits the department or an eligible local entity to issue a written permit to import into, possess, or transport within this state any specified wild animal, upon a determination that the animal is not*

*detrimental or that no damage or detriment can be caused to agriculture, native wildlife, the public health or safety, or the welfare of the animal and requires the department or an eligible local entity to inspect the wild animal facilities. Existing law requires the department, on or before May 1, 1991, to establish and keep current written policies relating to the housing, possession, importation, and transportation of wild animals. Existing law also requires the commission to revoke or deny a permit under certain circumstances.*

*This bill would prohibit the issuance of a permit to breed specified wild animals unless the person holds an American Association of Zoos and Aquariums permit, a research permit, or a single event breeding for exhibitor permit. The bill would allow the department to revoke or deny a permit under specified circumstances. The bill would prohibit an eligible local entity from inspecting a wild animal facility if that local entity is employed by, or receives compensation from, the wild animal facility, and would require the department, no later than March 31, 2006, to develop, implement, and enter into memorandums of understanding with eligible local entities if the department elects not to inspect every wild animal facility. The bill would require every person holding a wild animal permit to implant a microchip in or tattoo the animal with an identification number, and to report the identification number of either to the department, for maintenance in a registry. The bill would require the department, on or before March 31, 2006, to establish and keep current written policies relating to the housing, possession, importation, and transportation of wild animals, including responding to an escape of a wild animal. The bill would require any person who possesses a wild animal to immediately report the escape or release of the animal, and would make the possessor liable for all expenses associated with efforts to recapture the animal. The bill would require any person who acquires, transfers, relocates, or possesses a wild animal to provide prior notice to the department relating to certain action taken in connection with, or relate to, the animal, except under specified circumstances. The bill would require a person claiming a confiscated wild animal to post a security bond or cash with the department in order to reclaim physical possession of that animal. The bill would also require the possessor of a specified wild animal to be liable for all reasonable costs incurred by the new owner for the relocation and care of the animal, if the animal is confiscated and subsequently transferred to a new owner. The bill would expand the civil penalty for any person who violates certain*

wild animal provisions, and would delete the requirement that fees collected pursuant to the provisions relating to wild animals to be deposited in the Fish and Game Preservation Fund, and would instead provide that the fees may be used to administer and enforce the wild animal provisions.

(2) Existing law generally provides that a violation of the fish and game laws is a crime. Because this bill would impose additional requirements on every person holding a specified wild animal permit, this bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the Department of General Services, in awarding state contracts for construction, the procurement of goods, information technology, or the delivery of services, to provide a 5% bid preference to a certified small business, as defined, and a certified microbusiness, as defined. Under existing law, the department has the sole responsibility for certifying businesses as small businesses and microbusinesses.~~

~~This bill would specify that if a qualified local government, as defined, has certified a business as a small business or a microbusiness, that certification applies for the purposes of the bid preference for state contracts.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 14839.1 of the Government Code is~~
- 2     ~~amended to read:~~
- 3     ~~SECTION 1. Section 2125 of the Fish and Game Code is~~
- 4     ~~repealed.~~
- 5     ~~2125. (a) In addition to any other penalty provided by law,~~
- 6     ~~any person who violates this article is subject to a civil penalty of~~
- 7     ~~not less than five hundred dollars (\$500) nor more than ten~~
- 8     ~~thousand dollars (\$10,000) for each violation.~~

~~(b) The Attorney General, or the city attorney of the city or the district attorney or county counsel of the county in which a violation of this article occurs, may bring a civil action to recover the civil penalty in subdivision (a) and the costs of seizing and holding the animal listed in Section 2118. The civil action shall be brought in the county in which the violation occurs and any penalty imposed shall be transferred to the Controller for deposit in the Fish and Game Preservation Fund in accordance with Section 13001.~~

~~(c) In an action brought under this section, in addition to the penalty specified in subdivision (a), the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness' fees may also be recovered and those amounts shall be credited to the same operating funds as that from which the expenditures for those purposes were derived.~~

*SEC. 2. Section 2150 of the Fish and Game Code is amended to read:*

2150. (a) The department or an eligible local entity, in cooperation with the Department of Food and Agriculture, may, upon application, issue a written permit to import into, possess, or transport within this state any wild animal enumerated in, or designated pursuant to, Section 2118, upon a determination that the animal is not detrimental or that no damage or detriment can be caused to agriculture, native wildlife, the public health or safety, or the welfare of the animal, as a result of the importation, transportation, or possession. *No permit shall be issued to breed within this state any wild animal enumerated in, or designated pursuant to, Section 2118, unless the person holds an American Association of Zoos and Aquariums (AZA) permit, a research permit, or a single event breeding for exhibitor permit, as described in paragraph (3), (5), or (6) of subdivision (b) of Section 671.1 of Title 14 of the California Code of Regulations.*

A permit shall be issued only upon application and payment of a nonrefundable application fee in an amount determined by the department pursuant to Section 2150.2. Application forms shall be provided by the department, or an eligible local entity, and shall be designed to ascertain the applicant's ability to properly care for the wild animal or animals the applicant seeks to import, transport, or possess. Proper care includes providing adequate

1 food, shelter, and veterinary care, and other requirements the  
2 commission may designate.

3 (b) The commission *or the department* shall revoke or deny a  
4 permit if it finds that a permittee or applicant has failed to meet,  
5 or is unable to meet, the requirements for importing, transporting,  
6 possessing, or confining any wild animal as established pursuant  
7 to Section 2120.

8 (c) A zoo is exempt from any permit requirement pursuant to  
9 this chapter except for animals whose importation, transportation,  
10 or possession is determined by the department, in cooperation  
11 with the Department of Food and Agriculture, to be detrimental  
12 or cause damage to agriculture, native wildlife, or the public  
13 health or safety. For purposes of this section, “zoo” means any  
14 organization which is accredited as meeting the standards and  
15 requirements of the American Association of Zoological Parks  
16 and Aquariums (AAZPA). Any California organization which is  
17 not accredited by the AAZPA may apply to the department for a  
18 waiver of specified permit requirements of this chapter. The  
19 department may grant or deny the request for a waiver for  
20 justified reasons. Foreign zoos outside this state are not subject to  
21 the permit requirements of this chapter beyond those specific  
22 permit requirements affecting California zoos or organizations  
23 with which they are collaborating. Any organization may appeal  
24 the determination of the department to the commission.

25 (d) An exhibitor licensed by the United States Department of  
26 Agriculture or a dealer who is so licensed who buys any animal  
27 specified in subdivision (c) from a zoo within the state, may sell  
28 or transfer it only to a private individual who has a permit issued  
29 pursuant to this section prior to the receipt of the animal or to a  
30 public or private organization which has a permit issued pursuant  
31 to this section prior to the receipt of the animal. The exhibitor or  
32 dealer who sells or transfers such an animal shall pay a fee  
33 pursuant to Section 2150.2 to the department.

34 (e) Any university, college, governmental research agency, or  
35 other bona fide scientific institution, as determined by the  
36 department, engaging in scientific or public health research is  
37 exempt from any permit requirement pursuant to this chapter  
38 except for animals whose importation, transportation, or  
39 possession is determined by the department, in cooperation with  
40 the Department of Food and Agriculture, to be detrimental or

1 cause damage to agriculture, native wildlife, or the public health  
2 or safety.

3 *SEC. 3. Section 2150.1 of the Fish and Game Code is*  
4 *amended to read:*

5 2150.1. Fees collected pursuant to this chapter for permits,  
6 permit applications, and facility inspections shall be ~~deposited in~~  
7 ~~the Fish and Game Preservation Fund~~ *used only to administer*  
8 *and enforce the provisions of this chapter.* The department shall  
9 annually identify the amount collected for each type of permit,  
10 permit application, or inspection for which a fee is collected.

11 *SEC. 4. Section 2150.4 of the Fish and Game Code is*  
12 *amended to read:*

13 2150.4. (a) Consistent with Section 3005.91, the department  
14 or an eligible local entity shall inspect the wild animal facilities,  
15 as determined by the director's advisory committee, of each  
16 person holding a permit issued pursuant to Section 2150  
17 authorizing the possession of a wild animal.

18 (b) In addition to the inspections specified in subdivision (a),  
19 the department or an eligible local entity, pursuant to the  
20 regulations of the commission, may inspect the facilities and care  
21 provided for the wild animal of any person holding a permit  
22 issued pursuant to Section 2150 or the facilities and care  
23 provided for any wild animal in any zoo, for the purpose of  
24 determining whether the animal is being cared for in accordance  
25 with all applicable statutes and regulations. The department or  
26 the eligible local entity, whichever conducts the inspection, shall  
27 collect an inspection fee, in an amount determined by the  
28 department pursuant to Section 2150.2. If the eligible local  
29 agency conducts the inspection, it shall transmit the fee to the  
30 department.

31 (c) *An eligible local entity shall not conduct inspections of*  
32 *wild animal facilities pursuant to subdivision (a) or (b) if that*  
33 *local entity is employed by, or receives compensation from, the*  
34 *wild animal facility being inspected. The payment of statutory*  
35 *inspection fees to the eligible local entity does not constitute*  
36 *employment or compensation for purposes of this subdivision.*

37 (d) *No later than March 31, 2006, the department, in*  
38 *cooperation with the committee created pursuant to Section*  
39 *2150.3, shall develop, implement, and enter into memorandums*  
40 *of understanding with eligible local entities if the department*

1 *elects not to inspect every wild animal facility pursuant to*  
2 *subdivisions (a) and (b).*

3 *SEC. 5. Section 2150.5 of the Fish and Game Code, as added*  
4 *by Section 8 of Chapter 789 of the Statutes of 1990, is amended*  
5 *to read:*

6 2150.5. (a) The department shall, on or before ~~May 1, 1991,~~  
7 *March 31, 2006*, establish, and thereafter keep current, written  
8 policies and procedures to implement the animal housing,  
9 possession, importation, and transportation requirements  
10 pursuant to this chapter. The department shall provide copies of  
11 the policies and procedures to interested parties upon request.

12 (b) The policies and procedures shall include, but not be  
13 limited to, criteria for all of the following:

14 (1) Receiving, processing, and issuing a permit or permit  
15 application, and conducting inspection activities.

16 (2) Contracting out inspection activities.

17 (3) Responding to public reports and complaints.

18 (4) Notification of the revocation, termination, or denial of  
19 permits, and related appeals.

20 (5) *Responding to an escape of a wild animal, including the*  
21 *establishment of guidelines for the safe recapture of the wild*  
22 *animal and procedures outlining when lethal force would be used*  
23 *to recapture the wild animal.*

24 (c) The department shall make proposed policies and  
25 procedures available to interested parties before their  
26 implementation. The department may receive and incorporate  
27 comments and recommendations on the policies and procedures  
28 from interested parties.

29 *SEC. 6. Section 2157 is added to the Fish and Game Code, to*  
30 *read:*

31 2157. (a) *Every person holding a permit issued pursuant to*  
32 *Section 2150 shall, at his or her expense, implant a microchip in*  
33 *the wild animal, by or under the supervision of a veterinarian, or*  
34 *tattoo the wild animal with an identification number, unless a*  
35 *veterinarian determines that implanting a microchip in the wild*  
36 *animal or tattooing the wild animal would endanger the*  
37 *well-being of the wild animal.*

38 (b) *The person shall report the microchip identification*  
39 *number or the tattoo identification number, whichever is*  
40 *applicable, to the department to maintain in a registry.*

1     *SEC. 7. Section 2193 is added to the Fish and Game Code, to*  
2     *read:*

3     *2193. (a) Any person who possesses a wild animal*  
4     *enumerated in, or designated pursuant to, Section 2118 shall*  
5     *immediately report the intentional or unintentional escape or*  
6     *release of the wild animal, to the department and the nearest*  
7     *enforcing officer of the city or county in which the wild animal*  
8     *resides. The possessor of the wild animal shall be liable for all*  
9     *expenses associated with efforts to recapture the wild animal.*

10    *(b) Any person who acquires a new wild animal enumerated*  
11    *in, or designated pursuant to, Section 2118 shall notify the*  
12    *department at least 10 days prior to obtaining physical*  
13    *possession of the animal. The notice shall include the common*  
14    *name, scientific name, sex, and age of the animal, the date of*  
15    *acquisition, and the identification number of the animal, as*  
16    *required pursuant to Section 2157. This subdivision shall not*  
17    *apply if the department has determined that the wild animal shall*  
18    *be acquired immediately by a permitted person.*

19    *(c) Any person who transfers or relocates a wild animal*  
20    *enumerated in, or designated pursuant to, Section 2118 shall*  
21    *notify the department at least 10 days prior to transferring or*  
22    *relocating the wild animal. The notice shall include the common*  
23    *name, scientific name, sex, and age of the animal, the date the*  
24    *animal was acquired, and the identification number of the*  
25    *animal, as required pursuant to Section 2157. This subdivision*  
26    *shall not apply if the department has determined that the wild*  
27    *animal shall be immediately transferred or removed to a*  
28    *permitted facility or out of state.*

29    *(d) A person who possesses a wild animal enumerated in, or*  
30    *designated pursuant to, Section 2118 shall immediately notify the*  
31    *department of the death of the animal. The notice shall include*  
32    *the common name, scientific name, sex, and age of the animal,*  
33    *the date the animal was acquired, and the identification number*  
34    *of the animal, as required pursuant to Section 2157.*

35    *SEC. 8. Section 2194 is added to the Fish and Game Code, to*  
36    *read:*

37    *2194. (a) In addition to any other penalties provided by law,*  
38    *any person who violates any provision of this chapter or any*  
39    *regulation implementing this chapter shall be subject to a daily*  
40    *civil penalty of not less than five hundred dollars (\$500) and not*



1 *more than ten thousand dollars (\$10,000) for each animal with*  
2 *respect to which there has been a violation, and for each day the*  
3 *violation continues. A judge may prohibit the person from*  
4 *obtaining future permits to own a wild animal. The fees collected*  
5 *under this subdivision shall be used to administer and enforce*  
6 *this chapter.*

7 *(b) The Attorney General, or the city attorney of the city, or*  
8 *the district attorney or county counsel of the county in which a*  
9 *violation of this article occurs, may bring a civil action to*  
10 *recover the penalty established pursuant to subdivision (a) and*  
11 *the costs of seizing and holding the animal. The civil action shall*  
12 *be brought in a county in which the violation occurred.*

13 *(c) In addition to the penalty specified in subdivision (a), the*  
14 *reasonable costs of investigation, reasonable attorney's fees, and*  
15 *reasonable expert witness' fees may also be recovered and those*  
16 *amounts shall be credited to the same operating funds as that*  
17 *from which the expenditures for those purposes were derived.*

18 *(d) If an animal is confiscated because the animal was kept in*  
19 *contravention of this chapter or any regulation implementing this*  
20 *chapter, the person claiming the animal shall post a security*  
21 *bond or cash with the department in an amount sufficient to*  
22 *guarantee payment of all reasonable expenses expected to be*  
23 *incurred in caring and providing for the animal for at least 30*  
24 *days, including, but not limited to, the estimated cost of feeding,*  
25 *medical care, and housing. If the person claiming the animal*  
26 *fails to comply with the terms of his or her permit and to regain*  
27 *possession of the animal after the expiration of the first 30-day*  
28 *period, the security bond or cash shall not prevent the*  
29 *department from disposing of the animal at the end of the 30*  
30 *days, unless the person claiming the animal posts an additional*  
31 *security bond or cash with the department to secure payment of*  
32 *all reasonable expenses expected to be incurred in caring and*  
33 *providing for the animal for an additional 30 days, and does so*  
34 *prior to the expiration of the first 30-day period. The amount of*  
35 *the security bond or cash shall be determined by the department,*  
36 *and shall be based on the current rate to feed, provide medical*  
37 *care to, and house the animal.*

38 *SEC. 9. Section 2195 is added to the Fish and Game Code, to*  
39 *read:*

1     2195. *The possessor of a wild animal enumerated in, or*  
2 *designated pursuant to, Section 2118 shall be liable for all*  
3 *reasonable costs incurred by the new owner for the relocation*  
4 *and care of the animal, if the animal is confiscated and*  
5 *subsequently transferred to that new owner by the department or*  
6 *an enforcing officer of the city or county where the wild animal*  
7 *resides.*

8     SEC. 10. *No reimbursement is required by this act pursuant*  
9 *to Section 6 of Article XIII B of the California Constitution*  
10 *because the only costs that may be incurred by a local agency or*  
11 *school district will be incurred because this act creates a new*  
12 *crime or infraction, eliminates a crime or infraction, or changes*  
13 *the penalty for a crime or infraction, within the meaning of*  
14 *Section 17556 of the Government Code, or changes the definition*  
15 *of a crime within the meaning of Section 6 of Article XIII B of the*  
16 *California Constitution.*

17     ~~14839.1. (a) The department shall have sole responsibility~~  
18 ~~for certifying and determining the eligibility of small businesses~~  
19 ~~and microbusinesses under this chapter.~~

20     ~~(b) (1) Notwithstanding any other provision of law, if a~~  
21 ~~qualified local government has certified a business as a small~~  
22 ~~business or a microbusiness, that certification applies for the~~  
23 ~~purposes of this chapter.~~

24     ~~(2) For purposes of this section, "qualified local government"~~  
25 ~~means a local governmental entity that uses criteria and review~~  
26 ~~processes to certify a business as a small business or a~~  
27 ~~microbusiness that are substantially similar to those criteria and~~  
28 ~~review processes that are used by the department to certify a~~  
29 ~~business as a small business or a microbusiness.~~